

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARTHUR CAMPBELL,

Plaintiff,

v.

CYNTHIA GAUSE, *et. al.*,

Defendants.

Case No. 10-11371

Honorable John Corbett O'Meara

**ORDER DENYING MOTION FOR EXTENSION OF TIME AND
FOR SUBSTITUTION OF COUNSEL**

This matter came before the court on plaintiff Arthur Campbell's March 3, 2014 motion for extension of time to file objections to Magistrate Judge R. Steven Whalen's February 11, 2014 Report and Recommendation.

Pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2), objections to a report and recommendation ("R & R") must be filed within fourteen (14) days of service of a copy the R & R. In this case objections were due February 28, 2014. Plaintiff waited until February 25, 2014, to mail his motion for an extension of time for objections that were due a mere three days later. That motion was not filed until March 3, 2014, after the due date for the objections themselves.

The court will deny Plaintiff's motion for extension. First, plaintiff Campbell failed to file the motion within a reasonable time. If he wanted an extension, he should have filed it earlier. In addition, this case was filed April 6, 2010, *nearly four years ago*; and after almost 90 docket entries, the magistrate judge has reported that it is entirely without merit. Plaintiff filed suit alleging that Defendants had transferred him to a different facility in retaliation for his exercising his constitutional rights; however, in his deposition Plaintiff conceded that he himself had requested the

transfer. The court finds that the filing of objections to the R & R in this case would have been futile; therefore, there is no need to grant an extension of time in which to file them.

Finally, the court will also deny Plaintiff's motion for substitution of counsel. The appointment of counsel in a civil case is a privilege and not a constitutional right, one that should be allowed only in exceptional cases. Lopez v. Reyes, 692 F.2d 15, 17 (5th Cir. 1982). The United States Court of Appeals for the Sixth Circuit has advised that district courts, in considering an application for appointment of counsel in civil cases, "should at least consider plaintiff's financial resources, the efforts of plaintiff to obtain counsel, and whether plaintiff's claim appears to have any merit." Henry v. City of Detroit Manpower Dep't., 763 F.2d 757, 760 (6th Cir. 1985). In this case Plaintiff was allowed appointment of counsel once. In light of the R & R finding that the case should be dismissed without prejudice, the court will not expend further resources granting a motion for substitution of counsel.

ORDER

It is hereby **ORDERED** that plaintiff Campbell's March 3, 2014 motion for extension of time to file objections and for substitution of counsel is **DENIED**.

s/John Corbett O'Meara
United States District Judge

Date: March 5, 2014

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, March 5, 2014, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager